

SOUTH AFRICA / JUDGMENT

Maseko v Skye Energy Logistics ta Skye Logistics (JS500/24) [2025] ZALCJHB 263 (7 May 2025)

[2025] ZALCJHB 263

COURT

Labour Court Johannesburg

BEFORE

M T M Phehane

CASE / FILE NUMBER

JS500/24

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THE

LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not

Reportable

Case

No: JS500/24

In

the matter between:

SIPHO

JIMMY

MASEKO

Applicant

and

SKYE

ENERGY LOGISTICS t/a SKYE LOGISTICS

Respondent

Decided:

In Chambers

Delivered:

7 May 2025 (This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court website and release to SAFLII. The date and time for handing-down is deemed to be 10h00 on 7 May 2025.)

JUDGMENT

PHEHANE, J

[1] This is a default judgment application in which the plaintiff seeks the following remedy:

1. The setting aside of his retrenchment;
2. Reinstatement;
3. Compensation for loss of income; and
4. The setting aside of a mutual separation agreement concluded between him and his employer.[1]

[2] The plaintiff pleads that his dismissal was procedurally and substantively unfair as the employer failed to comply with the provisions of sections 189 and 189A of the Labour Relations Act[2] (LRA).[3] Attached as annexure E to the statement of claim is a certificate of outcome by the Commission for Conciliation, Mediation and Arbitration (CCMA) issued on 11 April 2024, recording that the plaintiff's referred dismissal dispute in terms of section 189 of the LRA remains unresolved.

[3] In terms of the provisions of section 191(5)(b)(ii) read with section 191(11)(a) of the LRA, a dispute relating to dismissal for operational requirements must be referred to this Court for adjudication within 90 days after the CCMA has certified that the dispute remains unresolved.

[4] The plaintiff referred his dispute to this Court on 4 September 2024, which is out of time. The referral is not accompanied by an application for condonation for its late filing.

[5] In the premises, this Court lacks jurisdiction to adjudicate this referral and the default judgment application.

[6] In the premises, the following order is made:

Order

1. The matter is struck off the roll for want of jurisdiction.

M. T. M. Pehane

Judge of the Labour Court of South Africa

[1] Pleadings, statement of claim at para 7 on p 6.

[2] Act 66 of 1995, as amended.

[3] Pleadings, statement of claim at para 5 on pp 3 to 5.

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